

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE:

Dist. Ct. No: 2:19-cv-00143-TSZ

Internal Bankruptcy No. 19-S002

Related Case: No.: 12-11284- MLB

Chapter: 7

DEMETRIUS BERTRAND DICKERSON, SR.,
Debtor

APPELLANT'S DESIGNATION OF
RECORD AND STATEMENT OF ISSUES
ON APPEAL FROM BANKRUTPCY
COURT

DEMETRIUS BERTRAND DICKERSON, SR.,
Appellant,
v.
MERCHANTS CREDIT CORPORATION,
Appellee.

I. Designation of Record

Appellant Demetrius Bertrand Dickerson, SR, pursuant to Federal Rule of Bankruptcy Procedure 8009(a), hereby designates the following items to be included in the record on appeal.

Dkt No. / Tr. Ex.	Name of Document	Date
1	Chapter 7 Voluntary Petition	2/12/2012
8	341 Meeting of Creditors Notice	2/13/2012
12	Discharge of Debtor	6/12/2012
13	BNC Certificate of Mailing – Order of Discharge	6/14/2012

APPELLANT'S DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL FROM
BANKRUPTCY COURT - 1

HENRY & DEGRAAFF, P.S.
150 NICKERSON ST. STE 311
SEATTLE, WASHINGTON 98109
(206) 467-2000

1	16	Ex Pate Order Granting Debtor's Motion to Reopen Case	16
2	18	Motion for Sanctions for Violation of the Discharge Injunction	07/24/2018
3	24	Motion for Sanctions for Violation of the Discharge Injunction	7/25/2018
4	25	Declaration of Demetrius Bertrand Dickerson Sr in Support of Motion for Sanctions	7/25/2018
5	26	Declaration of Shirley Dickerson in Support of Motion for Sanctions	7/25/2018
6	27	Declaration of Christina L Henry in Support of Motion for Sanctions	7/25/2018
7	28	Statement Request for Judicial Notice	7/25/2018
8	29	Proof of Service	7/29/2018
9	30	Supplemental Declaration of Demetrius Bertrand Dickerson, Sr	8/27/2018
10	31	Proof of Service Supplemental Declaration of Demetrius Dickerson Sr.	8/27/2018
11	32	Notice of Amended/Continued Hearing on Motion for Sanctions for Discharge Violation	8/29/2018
12	34	Supplemental Brief in Support of Sanctions for Discharge Violation	9/24/2018
13	35	Supplemental Declaration in Support of Supplemental Brief	9/24/2018
14	37	Response to Motion for Sanctions for Violation of the Discharge Injunction.	10/11/2018
15	38	Declaration of Scott Wiswall	10/11/2018
16	40	Supplemental Filing of Exhibit A (6) to Substitute for Dkt 35-7.	10/11/2018
17	51	Supplemental Filing of Redacted Exhibit 35-7 as in Order entered at Dkt No. 49	10/12/2018
18	57	Supplemental Filing of Exhibit A(17) to replace Exhibit 35-18	10/15/2018
19	58	Reply in Support of Debtor's Motion for Sanctions	10/15/2018
20	64	Order Granting Motion for Order Allowing Supplemental Brief Nunc Pro Tunc	10/25/2018
21	66	Transcript of Hearing held on 10/18/2018	11/08/2018
22	69	Order re Discharge Violation	11/09/2018
23	88	Brief for Evidentiary Hearing	12/07/2018
24	92	Motion in Limine	12/10/2018
25	94	Response to Motion in Limine	12/12/2018
26	95	Reply to Motion in Limine	12/12/2018
26	100	Order on Merchant Credit Corporation's Motion in Limine	12/20/2018
26	102	Findings of Fact and Conclusions of Law Following Evidentiary Hearing	01/18/2019

APPELLANT'S DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL FROM
BANKRUTPCY COURT - 2

HENRY & DEGRAAFF, P.S.
150 NICKERSON ST. STE 311
SEATTLE, WASHINGTON 98109
telephone (206) 330-0595

1	101	Transcript of Hearing Held 12/13/2018	01/17/2019
2	104	Order Denying Motion for Sanctions for Discharge Violation	01/25/2019
3	Tr. Ex. D36	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (0999_20180508_154947_001327_i_2067241586_4256432613_1)	5/1/2018
4	Tr. Ex. D38	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (1199_20180514_171013_000655_i_2067241586_4256432613_0)	5/14/2018
5	Tr. Ex. D39	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (0699_20180502_082136_000547_i_2067241586_4256432613_0)	5/2/2018
6	Tr. Ex. D40	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (1299_20180515_170753_000549_i_2067241586_4256432613_0)	5/2/2018
7	Tr. Ex. D41	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (0499_20180501_153101_000059_i_2067241586_4256432613_140)	5/1/2018
8	Tr. Ex. D42	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (1399_20180516_090025_000228_i_2067241586_4256432613_0)	5/16/2018
9	Tr. Ex. D43	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (1499_20180516_154713_001249_i_2067241586_4256432613_0)	5/16/2018
10	Tr. Ex. D44	Transcript of Recorded Call between Shirley Dickerson and Merchants Credit (1699_20180521_080003_000351_i_2067241586_4256432613_0)	5/21/2018
11	Tr. Ex. D45	Chapter 7 Bankruptcy Petition for Demetrius Bertrand Dickerson, Case No. 12-11284-MLB, Dkt No. 1	2/12/2012
12	Tr. Ex. D48	Motion for Sanctions for Violation of the Discharge Injunction, Case No. 12-11284-MLB, Dkt No. 24	7/25/2018
13	Tr. Ex. D49	Email to Jason Woehler re Subpoena re Motion for Discharge Violation with Subpoena with Exhibit A attached	7/30/2018
14	Tr. Ex. D50	Email to Jason Woehler re Subpoena re Motion for Discharge Violation with Letter attached	8/1/2018
15	Tr. Ex. D51	Email correspondence with Jason Woehler re Deposition date	8/1/2018

APPELLANT'S DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL FROM
BANKRUTPCY COURT - 3

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1	Tr. Ex. D52	Email to Jason Woehler rerevised Subpoena re Motion for Discharge Violation with Subpoena with Exhibit A and Exhibit B attached	8/2/2018
2	Tr. Ex. D53	Fax Sent to Merchants Credit Corporation, Letter from Andrew Gebelt re Discharge dated 8/1/2012	4/3/2018
3	Tr. Ex. D55	Fax from Shirley Dickerson to David Fagan at Merchants Credit Corporation	5/14/2018
4	Tr. Ex. D56	Letter from Christina L Henry to David Quigley at Merchants Credit Re Discharge Violation	6/8/2018
5	Tr. Ex. D57	Merchants Credits' Policies and Procedures regarding Garnishment and Bankruptcy	N/A
6	Tr. Ex. D58	Pacer Search	N/A
7	Tr. Ex. X1	Collection Notes	
8	Tr. Ex. X2	Cop of the Dickerson's Marriage Record Obtained from Washington State Archives	
9	Tr. Ex. X3	Pleadings for Merchants Credit Corporation vs. Shirley Dickerson Shirley AKA Bowen, King County District Court, Case No. 93-17172	
10	Tr. Ex. X4	Motion Affidavit and Order for Default Judgment	
11	Tr. Ex. X5	Judgment and Order to Pay	
12	Tr. Ex. X6	Judgment and Order to Pay	
13	Tr. Ex. X7	Release of Writ of Garnishment	
14	Tr. Ex. X8	Writ of Garnishment for Continuing Lien on Earnings	
15	Tr. Ex. X9	Release of Writ of Garnishment	
16	Tr. Ex. X10	Release of Writ of Garnishment	
17	Tr. Ex. X11	Cover, Index, and Photographs of Notebooks of Approved Policies and Work Instructions	
18	Tr. Ex. X12	Application for Garnishment	
19	Tr. Ex. X13	Transcript of Recorded Call between Shirley Dickerson and Merchants	
20	Tr. Ex. X14	Transcript of Recorded Call between Shirley Dickerson and Merchants regarding the debt in question being incurred prior to her marriage to Demetrius Dickerson.	
21	Tr. Ex. X15	Internal email within Merchants regarding the status of Shirley Dickerson's debt.	
22	Tr. Ex. X16	Transcript of Recorded Call between Shirley Dickerson and Merchants	
23	Tr. Ex. X17	Internal email within Merchants regarding the status of Shirley Dickerson's debt.	
24	Tr. Ex. X18	Transcript of Recorded Call between Shirley Dickerson and Merchants regarding Ms. Dickerson claiming she had never been served.	
25	Tr. Ex. X19	Transcript of Recorded Call between Shirley Dickerson and Merchants	
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1	Tr. Ex. X20	Transcript of Recorded Call between Shirley Dickerson and Merchants regarding not agreeing with Jason Woehler's review of her file.	
2	Tr. Ex. X21	Copy of Jason Woehler's Outlook Calendar for June 2018 through August 2018.	
3	Tr. Ex. X22	Letter from Christina Henry to Merchants.	
4	Tr. Ex. X23	Internal email within Merchants regarding the status of Shirley Dickerson's debt	
5	Tr. Ex. X24	Internal email within Merchants regarding the status of Shirley Dickerson's debt	
6	Tr. Ex. X25	Email from Jason Woehler to James Dickmeyer indicating belief that Merchant's acted in the good faith belief that the debts in question were not discharged.	
7	Tr. Ex. X26	Email from Jason Woehler to James Dickmeyer with copies of Merchants Credit collection notes for Shirley Dickerson's account, and authorizing Mr. Dickmeyer take steps to resolve the matter.	
8	Tr. Ex. X27	Email from Jason Woehler to James Dickmeyer asking if Mr. Dickmeyer has contacted Christina Henry.	
9	Tr. Ex. X28	Email from James Dickmeyer to Jason Woehler regarding his phone call with Christina Henry, Shirley Dickerson's attorney.	
10	Tr. Ex. X29	Merchants Credit's Release of Writ of Garnishment	
11	Tr. Ex. X30	Internal email within Merchants regarding the status of Shirley Dickerson's debt	
12	Tr. Ex. X31	Invoice from Jim Dickmeyer to Merchant's for services rendered.	
13	Tr. Ex. X32	E-mail from Jim Dickmeyer to Jason Woehler at Merchant's after review of a 2012 email exchange related to status Shirley Dickerson's debt.	
14		US Bankruptcy Court, Western District of Washington - Bankruptcy Docket – Case# 12-11284-MLB	

II. ISSUES TO BE PRESENTED ON APPEAL

Appellant Demetrius Bertrand Dickerson, Sr, pursuant to Federal Rule of Bankruptcy Procedure 8009(a) hereby states the issues to be presented on appeal:

1. Where Merchants Credit Corporation ("Merchants") was found to have violated the discharge injunction, whether the bankruptcy court erred when it did not sanction Merchants

1 for contempt pursuant to 11 U.S.C. sec. 105, finding that Merchants acted with a good-faith
2 belief that the discharge injunction did not apply.

3 2. Whether the bankruptcy court erred in following *Lorenzen v. Taggart* (*In re*
4 *Taggart*), 888 F.3d 438, 443 (9th Cir. 2018), cert. granted, 2019 WL 98543, 2019 U.S. LEXIS 1
5 (Jan. 4, 2019) that is currently on appeal with the U.S. Supreme Court, where *Taggart's* holding
6 did not cover the actions of entities other than individual actors.

7 3. To the extent that *Taggart* remains valid law and covers the conduct at
8 issue: Whether the bankruptcy court erred by considering the subjective testimony of individual
9 employees and others at Merchants in determining whether the corporate entity (Merchants)
10 possessed a "good-faith belief" that its actions did not violate the discharge injunction.

11 4. Whether the bankruptcy court erred by holding that it was possible for a corporate
12 entity to possess a subjective "good-faith belief" at all, as a corporation cannot be said to possess
13 any mental state at all.

14 5. Whether the bankruptcy court erred by declining to issue inherent sanctions
15 against Merchants for its actions in violating the discharge injunction, in part by shifting the
16 burden to the Debtor to prove the mental state of a corporate entity.

17 6. To the extent *Taggart* applies and a corporate entity may have subjective beliefs
18 for purposes of section 105, the bankruptcy court erred in excluding evidence of debt collection
19 law violations committed by Merchants' attorney and witness Jason Woehler.

20

21 Dated this 12th of February 2019

22 /s/ Christina L. Henry

23 Christina L Henry, WSBA #31273
24 Henry & DeGraaff, PS
25 150 Nickerson St, Ste 311
26 Seattle, WA 98109
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 cherry@hdm-legal.com

22 /s/ Jason Anderson

23 Jason Anderson, WSBA #38014
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25 787 Maynard Ave S
26 Seattle, WA 98104-2987
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 jason@alkc.net

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3 **CERTIFICATE OF SERVICE**

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5 I, Christina L Henry, declare under penalty of perjury as follows:

6

7 1. I am over the age of eighteen years, a citizen of the United States, not a party herein, and am
8 competent to testify to the facts set forth in this Declaration.

9 2. That on February 12, 2019 I caused the foregoing document attached to this Certificate of
10 Service along with attached exhibits upon the following individuals via CM/ECF:

11 James E. Dickmeyer on behalf of Creditor Merchants Credit Corporation jim@jdlaw.net,
12 jim.dickmeyer@gmail.com

13 Marc Rosenberg on behalf of Creditor Merchants Credit Corporation mr@leesmart.com

14 Christina L Henry on behalf of Debtor Demetrius Bertrand Dickerson, Sr mainline@hdm-legal.com, HenryDeGraaffPS@jubileebk.net

15 Jason D Anderson on behalf of Debtor Demetrius Bertrand Dickerson, Sr
16 jason@alkc.net

17 Gregory J Jalbert on behalf of Interested Party Courtesy NEF
18 gregoryjalbert@gmail.com, r43861@notify.bestcase.com

19 James Rigby rigbylaw@aol.com, jr@trustesolutions.com; jr@trustesolutions.net;
20 patti@liveslaw.com

21 United States Trustee USTPRegion18.SE.ECF@usdoj.gov

22 I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
23 WASHINGTON THAT THE FOREGOING STATEMENT IS BOTH TRUE AND CORRECT.

24 Dated this February 12, 2019, at Seattle, Washington.

25 _____
26 /s/ Christina L Henry
 Christina L Henry